

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DONALD L. BLANKENSHIP,)	
)	
Movant,)	
)	
v.)	Civil Action No. 5:18-00591
)	(Criminal Action No. 5:14-00244)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

O R D E R

Pending before the Court is Movant's "Motion for *In Camera* Review." (Document No. 669.) Specifically, Movant requests that the Court conduct an *in camera* review of two categories of documents identified in the privilege logs: (1) Documents withheld solely on the basis of the deliberative process privileges; and (2) Documents withheld based on attorney-client privilege. (Id.)

In Response, the United States asserts that on July 30, 2018, counsel disclosed all documents implicated by the "Motion for *In Camera* Review." (Document No. 693, p. 3.) The United States acknowledges that it has not disclosed certain documents allegedly protected by attorney-client privilege. (Id.) The United States, however, provided a revised privilege log (Document No. 695) concerning these documents. (Id.) The United States argues that a request for *in camera* review is premature because "the preferred process for determining whether attorney-client privilege applies is through the submission of a privilege log." (Id.) The United States asserts that the revised privilege log demonstrates that the documents at issue are shielded by the attorney-client privilege. (Id.) Therefore, the United States concludes that Movant's above Motion should be "denied as moot regarding the documents disclosed pursuant to the July 27 Protective Order,

and denied as to the remaining documents protected by the attorney-client privilege.” (Id.)

In Reply, Movant acknowledges that the above Motion is moot as to the first category of documents (those identified on the privilege log as withheld solely on deliberative process grounds). (Document No. 696, p. 2.) Movant complains that the United States did not provide any material as to the second category of documents that were withheld on grounds of attorney-client privilege. (Id.) Movant, however, acknowledges that the United States provided “a revised and more detailed privilege log.” (Id.) Based on the revised privilege log, Movant states that he has narrowed his request for *in camera* review to four specific documents (DLB-001463; DLB-001464-77; DLB-001496-001501; and DLB-001532). (Id.) Movant sets forth specific arguments as to why it is not clear from the revised privilege log that these documents are protected by attorney-client privilege. (Id., pp. 3 – 4.) Thus, Movant requests that this Court conduct an *in camera* review these specific documents. (Id., p. 4.)

The undersigned has reviewed the revised privilege log and agrees that an *in camera* review of Document Nos. DLB-001463, DLB-001464-77, DLB-001496-001501, and DLB-001532 is necessary. According, it is hereby **ORDERED** that Movant’s “Motion for *In Camera* Review” (Document No. 669) is **GRANTED in part and DENIED in part as moot**. Movant’s Motion is **GRANTED** as to Document Nos. DLB-001463, DLB-001464-77, DLB-001496-001501, and DLB-001532. Movant’s Motion is **DENIED as moot** as to all remaining documents. The United States is **ORDERED** to produce to the Court by **August 17, 2018**, Document Nos. DLB-001463, DLB-001464-77, DLB-001496-001501, and DLB-001532 for *in camera* review.

In accordance with Rule 72(a) of the Federal Rules of Civil Procedure, the parties are hereby notified that the rulings set forth above may be contested by filing objections to this Order within 14 days. If objections are filed, the District Court, United States District Judge Irene C.

Berger presiding, will consider the objections and modify or set aside any portion of the Order which it finds to be clearly erroneous or contrary to law.

The Clerk is requested to transmit a copy of this Order to counsel of record.

ENTER: August 8, 2018.



Omar J. Aboulhosn
United States Magistrate Judge